

REMARKS

Upon entry of the foregoing Amendment, claims 1-6, 9-13, 15-18, 20-21, and 23-28 are pending in the application. Claims 1-6, 9-13, 15-18, 20-21, and 23-26 have been amended. No claims have been cancelled. Claims 27-28 have been newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and the following Remarks, allowance of all the pending claims is requested.

BOARD DECISION

A. NON-STATUTORY DOUBLE PATENTING REJECTION OF CLAIM 1

The Board of Patent Appeals and Interferences ("Board") has affirmed the Examiner's rejection of claim 1 under the judicially created doctrine of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,430,712. Applicant notes that a terminal disclaimer is being filed herewith, and therefore respectfully requests that the Examiner withdraw this rejection.

Furthermore, Applicant notes that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting does not constitute an admission of the propriety of the rejection. See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991).

B. REJECTION OF UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Applicant acknowledges with appreciation that the Board has reversed the Examiner's rejection of claims 1, 6, 11, 13, 18, 20-21, 23, and 26 under 35 U.S.C. § 112, second paragraph. As such, Applicants respectfully request that the Examiner provide notice to indicate that this rejection has been withdrawn.

C. REJECTION UNDER 35 U.S.C. § 102

The Board has affirmed the Examiner's rejection of claims 1-6, 9-13, 15-18, 20-21, and 23-26 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,336,139 to Feridun et al. ("Feridun"). Applicant notes that claims 1-6, 9-13, 15-18, 20-21, and 23-26 have

been amended as indicated above, and submit that Feridun fails to disclose each and every feature of the claimed invention, as amended.

More particularly, in affirming the Examiner's rejection under 35 U.S.C. § 102(e), the Board alleges that the events of Feridun are equivalent to the alarms recited in the claimed invention, alleging that U.S. Patent No. 6,460,070 to Turek et al. ("Turek"), which is incorporated within Feridun by reference, "explicitly states that events include faults, alarms, and requests for maintenance." Board Decision, pages 7-9. Although Applicant disagrees with the propriety of the Board Decision, solely in an effort to expedite prosecution of this application, independent claims 1, 6, 11, 13, 18, 21, 23, and 26 have been amended to further clarify the manner in which "event correlation over the enterprise is divided into the concepts of event space and alarm space," whereby "events" and "alarms" represent different data abstractions that are processed in different ways.

For example, the independent claims have been amended to recite, among other things, that various monitoring agents are configured to detect one or more "intra-domain events" as a function of component parameters that are monitored in respective domains, and further configured to generate one or more "intra-domain alarms" as a function of the "intra-domain events" that are detected in the respective domains. Furthermore, the independent claims have been amended to recite that an alarm correlation agent is configured to "correlate the intra-domain alarms" that are generated in the respective domains to generate one or more "inter-domain alarms" across the various domains. As such, the monitoring agents correlate the "intra-domain events" within the "event space" to generate the "intra-domain alarms," whereas the alarm correlation agent correlates the "intra-domain alarms" within the "alarm space" to generate the "inter-domain alarms."

In other words, the independent claims have been amended to clarify that the service level management provided by the claimed invention includes at least two different levels of correlation, wherein intra-domain alarms are first generated as a function of intra-domain events that are detected in various individual domains, with inter-domain alarms then being generated through correlation of the intra-domain alarms generated across the various individual domains. In contrast, Feridun describes limited mechanisms for processing

correlated events (or intra-domain alarms) that are identified when one or more events satisfy "some predefined correlation," indicating that an event correlator synthesizes information for the correlated events "to trigger some [undefined] action" (col. 9, lines 39-57). However, Feridun does not disclose or otherwise describe triggering an action to "correlate the intra-domain alarms generated in the first domain and the second domain to generate one or more inter-domain alarms across the first domain and the second domain," as recited in independent claim 1, for example.

Furthermore, Turek (which is incorporated into Feridun by reference) also fails to disclose or otherwise describe a further level of correlation in which "intra-domain alarms" are correlated to generate "inter-domain alarms." For example, the Board cites the passages in Turek indicating that "a given event [that is processed by a dispatch mechanism] is a network 'fault', alarm or other such trigger" (col. 7, lines 2-4). However, even assuming that the Board correctly characterized Turek as describing a system that can process alarms, Turek does not disclose or otherwise describe such processing as including the correlation of intra-domain alarms to generate inter-domain alarms across different domains of the network. Rather, Turek indicates that the action taken to process an event, alarm, fault, or other condition is to deploy a "selected software agent . . . into the computer network to diagnosis [*sic*] the fault" (Abstract). Thus, for at least the reason that Turek does not disclose that alarm diagnosis includes inter-domain alarm correlation, Turek further fails to disclose or otherwise describe an alarm correlation agent configured to "correlate the intra-domain alarms generated in the first domain and the second domain to generate one or more inter-domain alarms across the first domain and the second domain," as recited in independent claim 1, for example.

Moreover, in affirming the Examiner's rejection under 35 U.S.C. § 102(e), the Board further alleges that Feridun does disclose analyzing correlated events to determine "the current state of the service." In particular, the Board alleges that "Appellant repeatedly states that the agents monitor the service by monitoring the state of network components," wherein "Appellant's broad description of 'service'" is cited to allege that "Feridun/Turek's disclosure of event/alarm diagnosis/correction for networked computer system components does teach establishing a desirable current 'state of the service.'" Board Decision, page 9. Although

Applicant also disagrees with the propriety of the Board Decision in this regard, solely in an effort to expedite prosecution of this application, independent claims 1, 6, 11, 13, 18, 21, 23, and 26 have been further amended to clarify the particular manner in which the claimed invention employs "event correlation . . . divided into the concepts of event space and alarm space" to manage a service that is provided over a network.

For example, the independent claims have been amended to recite, among other things, that the performance of a service provided by a network "depends upon performances of the plurality of network components that support the service," while further reciting features to clarify that such performance does not merely depend on diagnosing a particular fault condition. Rather, the claimed invention further recites that "the service has a state that represents the performance of the service," and that "inter-domain alarms" generated across various different domains are mapped "to a service parameter that represents a current state of the service." As such, in the claimed invention, whether the current state of the service is desirable or undesirable does not necessarily entail "event/alarm diagnosis/correction for networked computer system components," but rather involves comparing a value of the service parameter to "a service level identified in a service level agreement."

In other words, the independent claims have been amended to further clarify that correlating intra-domain events to generate intra-domain alarms and further correlating the intra-domain alarms to generate inter-domain alarms is employed to determine whether the current state of the service is desirable or undesirable. In particular, "the current state of the service is undesirable when the service parameter has a value that does not meet or exceed a service level identified in a service level agreement," while the desirable state of the service is established when the value of the service parameter meets or exceeds the service level identified in the service level agreement. As such, the amended independent claims recite that whether a desirable state of the service has been established depends upon the value of a service parameter in relation to a service level that is identified in a service level agreement. In contrast, Turek describes a system that attempts to diagnose alarm or fault conditions, without considering whether or how those alarms or fault conditions relate to a service level identified in a service level agreement.

Accordingly, for at least the foregoing reasons, Feridun (and the incorporated Turek reference) each fail to disclose each and every feature of amended independent claims 1, 6, 11, 13, 18, 21, 23, and 26. Claims 2-5, 9-10, 12, 15-17, 20, and 24-25 depend from and add features to one of amended independent claims 1, 6, 11, 13, 18, and 21. Thus, Feridun fails to disclose each and every feature of amended claims 1-6, 9-13, 15-18, 20-21, and 23-26 for at least the foregoing reasons.

NEW CLAIMS 27-28

For at least the reasons provided in further detail above, Feridun fails to disclose each and every feature of amended independent claim 1. New claims 27-28 depend from and add features to amended independent claim 1. Thus, newly added claims 27-28 are allowable over Feridun for at least the same reasons discussed in further detail above.

CONCLUSION

Having addressed each of the foregoing issues decided by the Board, it is respectfully submitted that a full and complete response has been made to the outstanding Board Decision. As such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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